

REMARKS

Reconsideration of the application is respectfully requested.

The following discussion addresses the issues in the order in which they have been raised in the Office Action.

Claims Rejected Under 35 U.S.C. §101

Claims 1-11 stand rejected under 35 U.S.C. §101 because independent claim 1 allegedly lacks evidence of any practical results. This rejection is now moot as claims 1-11 have been canceled.

Claims Rejected Under 35 U.S.C. §102

Some of the claims stand rejected as being anticipated by U.S. Patent No. 6,895,441 issued to Shabtay ("Shabtay"). Although Applicants provide the reasons below for disagreeing with the rejection, the right to swear behind this reference is reserved.

Beginning with claim 12, this claim recites a method for priority based connection establishment within an ATM network. In particular, a path through the ATM network is determined *for a requested connection, the path being determined in light of an updated understanding of the network after receiving PTSE information that describes the allocation of bandwidth to specific priority levels, the requested connection having a priority level, and wherein the determined path results in one or more lower priority connections being dropped in order to allow bandwidth for the requested connection.* Shabtay does not disclose such a method.

In Shabtay, a path rerouting mechanism is described which restores traffic following a failure. Shabtay, Abstract. Each link in the network of Shabtay is adapted to advertise the bandwidth available on an optional per priority class basis, for protection tunnels and label switched paths. Shabtay, col. 13, lines 33-41. When a path is to be

rerouted, an initiating node executes a routing algorithm only on the links with sufficient bandwidth. This rerouting algorithm is applicable in various cases when there is a failure or a topology change. Shabtay, col. 13, lines 48-50 and col. 14, lines 28-42.

Thus, all of the discussion in Shabtay focuses on path rerouting for a failure or topology change, not *determining a path through the network for a requested connection*. In addition, although a path is rerouted in Shabtay using bandwidth allocation information received from the links in the network, this use of the bandwidth allocation information is only for finding links that have sufficient bandwidth available. Shabtay merely mentions, in passing, that the advertised bandwidth be on an optional priority basis. This does not fairly teach or suggest using the advertised available bandwidth information, *to result in one or more lower priority connections being dropped in order to allow bandwidth for a requested connection (for which the path was determined)*. Accordingly, reconsideration and withdrawal of the rejection in view of Shabtay is requested.

The next independent claim, claim 23, has also been rejected in view of Shabtay. However, this rejection is now moot as claim 23, along with its dependent claims 24-33 have been canceled.

The Office Action also rejects claim 34 for the same reasons as claim 12. Applicants again respectfully disagree with the rejection, because Shabtay does not teach or suggest a system that can *determine a path, through a network, for a requested connection ... the requested connection having a priority level, wherein the determined path results in one or more lower priority connections being dropped in order to allow bandwidth for the requested connection*. Shabtay reroutes a path through a network in the event of a failure or topology change, using advertised available bandwidth, but does not teach or suggest *determining a path for a requested connection including dropping one or more lower priority connections in order to allow bandwidth for the requested connection*.

New claims 44 and 53, as well as their associated dependent claims have been added without introducing any new matter. Claim 44 is drafted in means plus function

format and recites a network node that includes *means for receiving PTSE information from other nodes in the network and that describes bandwidth allocated to specific priority levels of a bandwidth resource in the network, and means for determining a path through the network for a requested connection, using the received PTSE information. This determination of the path results in one or more lower priority connections being dropped to allow bandwidth for the requested connection.* As to new claim 53, a networking node is recited that comprises a processing core to execute a software program and thereby access PTSE information received by the networking node from another node in the network, where the PTSE information is as recited in claim 44 and is used to determine the path for a requested connection, including dropping lower priority connections to allow bandwidth for the requested connection. Shabtay does not teach or suggest such network nodes.

Any dependent claims not mentioned above are submitted as not being anticipated or obvious, for at least the same reasons given above in support of their base claims.

It should be noted that not all of the assertions made in the Office Action, particularly those with respect to the dependent claims, have been addressed here, in the interest of conciseness. Applicants reserve the right to challenge any of the assertions made in the Office Action by the Examiner, with respect to the relied upon art references and how they would relate to Applicants' claim language.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No.

02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

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I hereby certify that this paper is being transmitted online via EFS Web to the Patent and Trademark Office, Commissioner for Patents, Post Office Box 1450, Alexandria, Virginia 22313-1450, on June 21, 2007.


Margaux Rodriguez June 21, 2007